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Taxation in Argentina

Deloitte, Haskins & Sells

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Taxation in Argentina

International
Tax and Business
Service

Taxation in Argentina

International Tax and Business Service

MAY 1979

This book is based on the latest information available to Deloitte Haskins & Sells as of the above date. The offices of Deloitte Haskins & Sells in Argentina are located at the following addresses:

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Taxation in Argentina is part of a series that presents information on taxation in various countries of the world. The book is intended to supply information of a general character regarding taxation in Argentina for use as background when considering the conduct of business in that country. Specific questions should be answered by reference to the laws and regulations of the country and by consultation with professional advisors in the light of the particular circumstances.

Taxation in Argentina is published in two forms: in a loose-leaf edition and as a bound book. Only the loose-leaf edition may be supplemented or revised. These supplements will appear on blue-colored sheets inserted at the end of the book. These supplementary pages will be keyed to the original text by chapter and section numbers and should always be read in connection with the original text. In addition, revised information may be presented on pages inserted in the basic text to replace original pages. Revisions of this type are indicated by a date that appears on the bottom of each replacement page.

Rules governing taxation are subject to change and reinterpretation, in many cases with little or no advance notice. The information in this book is based on material available to Deloitte Haskins & Sells as of May 1979.

Taxation in Argentina

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Part 1: The Tax System

Tax Legislation and Administration

1.01 Enactment of Tax Legislation

Under the constitutions of the Argentine Republic and its 22 provinces, the National Congress shares its tax legislative powers with the provincial legislatures and, within limitations, with the municipal council of the city of Buenos Aires. The power to impose taxes on imports and exports is vested solely in the National Congress consisting of the Chamber of Deputies and the Senate. However, since March 1976, these constitutions have been partially suspended and the functions of the Congress and the legislatures have been assumed by the Executive Power, consisting of the President acting through his cabinet.

Under the constitutional procedure, a tax bill had to be introduced in the Chamber of Deputies either by one or more of the deputies or by the Executive Power. Upon receipt of the report of the permanent or special committee to which the bill was submitted, it was debated in the Chamber. Following passage by the lower house it was transmitted, with or without amendments, to the Senate where it was submitted to the same process of study, report, and debate. The Senate had the prerogative either to amend and return a bill to the Chamber of Deputies for further consideration or to approve and transmit it to the Executive Power. The Executive could veto it, in which case it had to be returned to the Congress, where it could be passed by a two-thirds majority of each body. A bill became law after its promulgation. Similar procedures were followed in the provincial legislatures.

All taxes or duties levied in Argentina emanate from laws decreed by the Executive Power, or from laws or ordinances enacted by the various legislatures or local councils. Argentina has no "revenue code" like that of the United States; the different categories of taxes are governed by separate laws, which are frequently amended.

To avoid double taxation the federal government collects the income, sales, capital gains, excise, and capital taxes throughout the country and distributes to each of the provinces a specific share agreed upon beforehand. Moreover, the tax authorities of the City of Buenos Aires and most of the provinces have reached an agreement that attempts to protect organizations with a large scope of activities from the multiple taxation that may result from the substantial turnover taxes (13.05).

The tax laws and ordinances are complemented by tax regulations issued by the Executive Power.

Although the constitution is silent regarding the retroactive application of taxes, the Supreme Court of Justice has sustained the right of the Congress to legislate retroactively, but the retroactive effect cannot extend back further than the beginning of the fiscal year.

1.02 Tax Administration

The national tax laws are administered by the Tax Office, which is one of the major departments of the national government. It administers approximately 50 taxes, including those whose proceeds are partially distributed to the 22 provinces. The more important taxes that are distributed are the income tax and the following taxes discussed in Chapter 13: capital gains, capital, V.A.T., and excise.

The Tax Office is under the Secretariat of the Treasury, a branch of the Ministry of Economy. Its directors are “administrative judges,” with the power to make assessments, impose fines, and settle disputes arising from assessments and claims for refund of taxes.

The Tax Office has the function of interpreting the laws and decrees regarding taxes under its jurisdiction. Its interpretations, which are published in the Official Bulletin, are binding upon the parties if not appealed to the Treasury Department within 15 days. When appealed, they are binding only when the final verdict is published. In addition to these interpretations, the rulings issued by the Tax Court and the civil courts are sources of information for interpreting the tax laws.

Custom House. Customs duties are exclusively federal. The Director of the Custom House is empowered to promulgate rules, which, in some cases, cannot be appealed. In other instances, they may be appealed to the National Tax Court or to the federal judicial courts. The customs regulations contain more than 3,000 sections, which are similar in nature and structure to those applied in other countries. Customs duties are computed on the C.I.F. value of the merchandise. Imported merchandise is also subject to V.A.T. and excise taxes (Chapter 13).

1.03 Judicial Review

Adjustments or penalties imposed by the Tax Office may be appealed, at the option of the taxpayer, before an administrative tribunal with judicial functions or before a judicial court. An unsuccessful appeal before one of these institutions cannot be followed by an appeal before the other. However, the decisions of either of these courts may be appealed to the National Court of Appeal and, eventually, to the Supreme Court of Justice.

The administrative tribunal with judicial functions is known as the National Tax Court. Although this court is not empowered to determine the constitutionality of tax laws and decrees, it can apply the case law of the Supreme Court of Justice.

The National Tax Court is located in Buenos Aires, but it has jurisdiction throughout the country. It consists of a president and 16 members. All judges receive the same remuneration as the judges of the federal courts, and they can only be dismissed for grave reasons by a special jury presided over by the Attorney of the Treasury. The Court's creation has eliminated the requirement of having to pay a national tax before being able to contest it. However, the tax must be paid before appealing a decision of the Tax Court. Taxpayers have 15 working days after being notified of an assessment to appear before the Court without making any payment whatsoever. They may also have recourse to the Court to claim a refund in cases where the taxes have already been paid or to appeal an adverse decision of the Tax Office, an arbitrary assessment (4.01), or a fine.

A taxpayer who loses in an administrative proceeding before the National Tax Court and decides to appeal to the civil courts must make prior payment, except for fines which the Tax Office or the Customs Office collects throughout the country.

The civil court to which the taxpayer may appeal can be that of his legal domicile, the domicile of the involved tax authority, the place where the taxable transactions took place, or the place where the taxed goods are situated.

If the taxpayer's legal domicile is in a province, jurisdiction depends upon which authority is entitled to collect the tax in dispute. If that authority is the Tax Office or the Customs Office, the taxpayer must apply to the National Chamber of Appeal with jurisdiction in the place of his domicile and he may subsequently appeal to the Supreme Court of Justice. However, if the controversy involves a tax imposed by the government of a province or by a provincial municipality, the appeal must be made to the courts of the province even though the taxpayer may be domiciled in another jurisdiction. Subsequent appeal is to the Supreme Court of the respective province.

A similar procedure is followed if the taxpayer resides in the city of Buenos Aires, except that the federal courts have jurisdiction.

Appeals from the decisions of the Supreme Court of the provinces to the Supreme Court of Justice are limited to controversies where it is alleged that the provincial decision violates a guarantee accorded by the national constitution of Argentina, a law of the National Congress, or an international agreement approved by the National Congress.

1.04 Taxes Imposed by Local Authorities

The Twenty-two Provinces. Each of the provinces has the right to promulgate its own tax laws directed at certain economic activities within its jurisdiction. The most important of these taxes are those relating to real property, local consumption, local improvements, estates, and internal commerce and production. They include turnover and stamp taxes as well as vehicle licenses. In addition, some provinces impose entertainment, lottery, agricultural, public health, and electricity taxes. The provincial governments impose and collect these taxes through their own provincial tax offices. Taxpayers must apply to these offices to settle controversies arising from the provincial assessments or to provincial tax courts similar to the National Tax Court. Where this administrative procedure is unsatisfactory or nonexistent, taxpayers must appeal to the civil courts after payment of the tax. See 2.05 for tax incentives granted by most of the provinces.

Municipality of Buenos Aires. The city of Buenos Aires forms the Federal District that is separate from the provinces and is under the authority of the national government. The city collects its own revenue taxes, the most important of which is the turnover tax. Tax rates are fixed annually by the Municipal Council in the Tariff Ordinance, which, at the request of the Mayor, is approved by the national government and published in the official bulletin. Controversies involving taxpayers and the municipality are handled through the municipality's General Administration of Revenue. Because the National Tax Court does not intervene in municipal affairs, appeals must be made directly to the judicial courts.

Municipalities Other Than Buenos Aires. The municipalities are empowered under the provincial constitutions to develop their own affairs and are authorized to impose a wide variety of taxes by statutes enacted by the municipal councils. Municipal taxes include utility and license taxes. Many municipalities have also imposed taxes that are exactly the same as the provincial turnover taxes. In cases of excessive payment, the taxpayer must apply to his respective municipality. Claims can only be brought before the civil courts after payment of the tax has been made.

Distinctive Features of the Argentine Tax System

2.01 Summary

The basic theory of income taxation in Argentina differs from that in the United States in significant respects. First, for example, the general concept of the source of taxable income is geographic or territorial: only income from sources within Argentina is subject to taxation. This contrasts sharply with the United States system, under which the worldwide income of the taxpayer is subject to tax.

Secondly, Argentina taxes corporations and corporate dividends much differently than does the United States. In Argentina, corporate income tax is applied at a single rate, regardless of the amount of the entity's taxable income (Chapter 3). Shareholders receiving dividends are not required to include them in their tax returns (6.04). In the case of shareholders resident abroad, or with local residence but not registered with the tax authorities, a withholding tax is applied. Finally, whereas in the United States most revenues are derived from the income tax, in Argentina the various sales and excise taxes constitute significant additional sources of revenue.

Argentina requires enterprises to adjust their taxable incomes to take the effects of inflation into account (9.05 and Appendix C).

2.02 Classification of Taxpayers

The principal forms of doing business in Argentina are basically those which exist in other countries; namely, sole proprietorship, various forms of partnerships, limited liability company, corporation, and branch of a foreign company. All individuals, including sole proprietors and partners, subject to income tax file individual tax returns. A branch of a foreign company uses the regular corporation tax return for filing.

Partnerships. A general partnership is not itself subject to income tax, but the individual partners are. Nevertheless, a partnership is required to submit its financial statements and an income tax return to the Tax Office within five months of the close of its fiscal year. These serve as a basis for determining the taxable income or tax loss to be allocated among the partners, in conformity with the partnership agreement. Any salaries, fees, or interest paid or credited to any partner must be included in the tax return as profits of the year. Any tax-free income or income taxes withheld by third parties must be shown in the return.

On submitting the return to the Tax Office, the partnership must notify each partner of his share of the partnership's taxable and non-taxable income and of the taxes withheld. Each partner then includes his share of the taxable income in his own return. Foreign partnerships obtaining Argentine-source income are subject to the withholding of income taxes by the local entity paying or crediting the income.

If a domestic partnership has partners abroad, the partnership must withhold their income taxes at a flat rate of 45% if they do not have local representatives. Each domestic partner must include in his own return, before paying his income taxes, his share of partnership profits or losses, whether the partner is an individual or undivided estate (an estate which has not yet been distributed to any heir).

2.03 Inclusive Concept of Income Taxation

Under the Argentine tax system, all income from Argentine sources is subject to tax unless expressly excluded. The amount of tax is a certain percentage of the net annual taxable income. In this respect, the Argentine income tax resembles that of the United States. It is not a schedular tax system even though classes of income are grouped by law into four distinct categories. The purpose of this grouping is not to establish a schedular form of taxation but to allow individuals and estates that do not maintain books to submit declarations of the different types of net income on forms specially designed for each class of income. The various taxable amounts are then transferred to a composite form and, after deducting the personal allowances (10.03), the net income subject to tax is computed. Partnerships and corporations are required only to file a single return containing a summary of the entity's accounting records. Net taxable income is computed on the basis of this summary, subject to the adjustments prescribed by law.

2.04 Tax Year

The tax year is generally the calendar year, and the tax is normally paid on income obtained during each calendar year. However, corporations and other companies that maintain proper accounting records are allowed to compute their taxes on the net income of their particular fiscal year that ends during the normal calendar year.

When income is derived from individual activities, such as the liberal professions, rental of real estate, or mortgage interest, and these activities are properly recorded in the books of account, it is possible to request the Tax Office to allow such activities to be treated as commercial activities. In that case, an accounting year other than the calendar year may be used.

2.05 Industrial Tax Incentives

A number of incentives are provided for enterprises that locate outside Buenos Aires and its surrounding areas as well as for enterprises that make new investments or enlarge existing plants.

Incentives for New Investments. A special deduction from taxable income is allowed for the cost of new investment in fixed assets between December 1, 1976, and December 31, 1978, whether the assets are constructed in Argentina or abroad. For enterprises engaged in manufacturing or transportation, the deduction allowed is 40% of the cost of new fixed assets constructed within Argentina and related to their activities, with the exception of real estate and automobiles which are not eligible for this deduction. If the fixed assets are constructed abroad, the allowable deduction is 20% of the cost of the new fixed assets. These deductions do not reduce the basis of the fixed assets for purposes of depreciation.

Investments in new forestry plantations or to extend those already in existence are deductible as an expense in the determination of net income. Investors in shares, bonds, or paid-in capital of forestry enterprises may deduct 100% of their direct subscriptions.

Similar deductions apply to investment in arid land made with the intention of converting the land to useful production.

General Industrial Promotion Law. The general industrial promotion law establishes the scope and basic areas of the promotional incentives, which include: tax exemption in full or partially, suspension or deferment of taxes, accelerated depreciation for certain periods, exemption or reduction of custom duties on capital assets and spare parts that are not produced locally in acceptable quality, arrangements for the purchase or lease or other use of state-owned property, temporary restrictions on imports that are similar to the promoted goods to avoid building up of inventories before the promoted goods are in production, and reduced or no import duties on raw materials to be used locally provided this does not disadvantage any existing local industry. These incentives are subject to detailed regulations that will be issued by the Executive Power, which also has the authority to approve the investment projects and to grant the benefits within the scope of the law. These incentives cannot be granted for longer than ten years.

Provincial Incentives. Most provinces grant ten-year exemptions from some of their taxes to all new industries. To obtain these incentives, new enterprises must submit applications to the provincial governments. If an exemption has been granted to an enterprise, and similar enterprises apply later, the enterprises which applied later are entitled by right to the same exemption, but only for the unexpired term of the initial applicant's exemption.

2.06 Exporting Incentives

Exporters of certain manufactured goods may receive a deduction from taxable income of 10% of the sales price. In addition, exporters of certain manufactured goods are entitled to a rebate of 16% of their value as reimbursement for V.A.T. paid on raw materials used in their manufacture.

A free port exists at Tierra del Fuego. All imports into this zone are duty free and exports from this zone may enter other parts of Argentina free of duty, if certain conditions are met.

Part 2:

Income Taxes

Tax Rates

3.01 General

In general, the Argentine income tax applies to all income arising from Argentine sources. Such income is considered to be derived from capital, property, or rights located or used economically in Argentina as well as from carrying on commercial, professional, or personal activities there. Profits arising from the export of goods are considered to be from Argentine sources, while the profits of companies located abroad arising from imports into Argentina are not subject to Argentine tax. The nationality, domicile, residence, or place where contracts are made are not relevant.

Partnerships, excluding limited liability companies treated as corporations, are not subject to income tax, but partners must include their proportionate share of income in their individual tax returns (2.02).

3.02 Individuals

The Argentine income tax on individuals is assessed at the progressive rates set forth in the Rate Tables. The maximum tax rate is 45%. Nonresident individuals are taxed on their income from Argentine sources at the flat rate of 45%, except for dividends which are subject to a withholding tax of 17.5%.

3.03 Corporations

Domestic corporations are taxed at the flat rate of 33% of taxable profits. Branches of foreign corporations are taxed at the flat rate of 45%.

A domestic corporation must withhold at the rate of 17.5% on dividends paid abroad. If its entire profit after taxes were remitted abroad in the form of dividends, the effective rate of tax would be 45%.

Returns, Assessments, and Payment of Tax

4.01 Returns and Assessments

Argentine tax returns are not reports used by officials to assess the amount of tax. The taxpayers, themselves, determine their taxable income and the tax due. Any taxpayer who fails to submit his return within the required period is subject to a fine. Once submitted, a return is considered final. The taxpayer requires a written authorization from the Tax Office to submit changes that reduce the tax.

Individuals residing within Argentina and estates with annual incomes arising from Argentine sources are required to submit annual returns, unless their income is derived entirely from personal work as employees and the tax has already been withheld (5.01) or unless taxable income is less than available allowances. The returns, which are based on the income for a calendar year, are due by April 20 of the following year.

Income is divided into four categories, as discussed in 2.03. The return for each category is included in a composite return in which, after the deductions noted in 10.02 and 10.03, the taxable income or loss is determined. Taxes are computed at the rates set forth in Chapter 3. The return must also show the individual taxpayer's assets and liabilities in Argentina as of December 31 of each year, which information is utilized by the Tax Office in its audit of returns.

Argentine corporations and limited liability companies must submit annual returns, together with their annual financial statements. Each return should show the adjustments required to arrive at taxable income or loss and the computation of the tax. Returns must be submitted to the Tax Office within five months after the end of the fiscal year. In addition, when dividends are distributed, the corporation must submit a return that shows the amount distributed, the date it was placed at the disposal of the shareholders and, if the dividends were paid to shareholders resident abroad or to unidentified shareholders, the amount of tax withheld.

Corporations constituted abroad with permanently established branches in Argentina must submit their returns and pay their income tax in the same fashion as Argentine corporations, except that the rate of the tax is different (Chapter 3). When these entities remit or credit profits to their head offices abroad, no further payment or withholding of tax is required.

Assessments occur only in special circumstances; for example, when the taxpayer refuses to submit a return, when an increase in assets has not been satisfactorily explained, or when a return is otherwise challenged by the Tax Office. In these cases, the income is arbitrarily

estimated, but if the taxpayer does not agree with the estimate, he may appeal to the National Tax Court and from there to the civil courts (1.03).

4.02 Payment of Tax

The Director of the Tax Office fixes the dates for payment of income tax, which must be made by bank deposit. Taxpayers are required to make three advance payments each year aggregating 90% of that portion of the previous year's tax not covered by withholding, unless it is clear that the advance payments will exceed 90% of the income tax for the current year. In such cases, the Tax Office may grant requests, submitted before the due date of these advance payments, to waive the payments. After the advance payments are determined on the basis of the prior year's tax, they are adjusted to take into account changes in the wholesale price index. The remaining tax is payable with the return unless an arrangement is made with the Tax Office for instalment payments, which will include interest and adjustments for inflation.

For most corporate and individual taxpayers, the statute of limitations to bar both tax assessments and refunds runs for five years from January 1 of the year following the due date of the tax return. For unregistered taxpayers, the statutory period for assessments is ten years.

4.03 Examination of Returns

The Tax Office has authority to determine the validity of the returns submitted by taxpayers and withholding agents and to require the submission of new returns as well as the payment of deficiencies. It is empowered to require information from third parties as well as from the immediate parties. All accounting records must be supported by corresponding vouchers, and only satisfactory records are acceptable as evidence. Books and vouchers must be kept for a period of ten years.

4.04 Interest and Other Penalties for Late Filing and Late Payment

The late filing of a return, failure to give required details, failure to respond to a summons, and opposition to any examination are punishable by fines ranging from A\$P100* to A\$P10,000. Fines of 100% to 1,000% of the amount of the tax omitted may be imposed on a taxpayer, withholding agent, or third party who is guilty of any act, statement, omission, falsehood, concealment, or stratagem

*A\$P is the symbol used for the Argentine peso. The peso was revalued in 1970 when 100 old pesos became equivalent to one new peso.

tending to evade taxation. An additional penalty of imprisonment may be imposed on any withholding agent who fails within the required 15 days to remit taxes withheld. In addition to the fines, the failure to pay tax due, either totally or partially, results in an added surcharge of 12% for the first two months and 1½ % for each of the following months, calculated from the date on which the deposits should have been made. This surcharge may be waived if the delinquency was due to a reasonable cause. The surcharge is also levied for failure to comply with the prescribed due dates for extensions granted for payment of taxes in instalments (4.02).

Taxes and penalties paid after their due dates are subject to automatic adjustment for inflation. The adjustment is based on the increase in the wholesale price index between the month the amount was due and the month in which payment was made. Taxpayers entitled to tax refunds may also request such indexation.

Withholding Taxes

5.01 Withholding of Income Tax on Wages

Individuals whose only income is derived from personal services as employees do not have to register with the Tax Office nor are they required to submit annual returns. The employer withholds the total income tax payable on the employee's salary. For this purpose, the employer must calculate, at the beginning of each year, the annual income of each employee, estimating the total salary as well as any other compensation that is taxable, such as living quarters, board, and children's school fees. On the basis of information supplied by the employee, the employer deducts certain expenses from the total monthly salary of the employee. Among the deductions considered in calculating the annual net taxable income of the employee are personal allowances for dependents (10.03), allowable discounts for minimum nontaxable income, pension fund contributions, and a limited deduction for insurance premiums. The tax on the resulting amount is then withheld so that it equals the employee's tax for the year. The tax withheld on wages must be deposited with the Tax Office monthly.

Before March 31 of each year, the employer must submit a return to the Tax Office that lists the amounts withheld each month of the preceding calendar year. If an excessive amount has been withheld, the employer must return the amount directly to the employee.

5.02 Withholding on Interest, Dividends, and Other Payments

The Argentine tax system makes extensive use of withholding procedures and requires that any withheld tax, other than on wages, be paid to the Tax Office within 15 days. Anyone failing to withhold tax when required may be obliged to pay the Tax Office the amount that should have been withheld, unless there is proof that the recipient has paid the tax himself. Furthermore, the Tax Office may disallow as a deduction any expense paid without the required withholding of tax.

Withholdings on Argentine-source income paid or credited to non-residents are considered final taxes. Withholdings in respect of domestic taxpayers are not considered final; such taxpayers report their gross income and deduct the amount withheld from the total tax due.

Payments or credits made by local partnerships to their partners or to local representatives of partners abroad are not subject to withholding tax except in some special cases regarding partners abroad. Local branches of foreign corporations do not withhold any tax on credits to their head office, as the branch is taxed on all profits (4.01).

No withholding is required if the recipient is exempt from income tax. However, entities not themselves subject to tax may be required to withhold taxes on payments to others. In some cases, when no withholding is necessary because amounts are small, information returns may have to be filed.

The payees must advise the withholding agent of their tax registration numbers; otherwise, there may be an increase in the rate of withholding. The withholding agent must furnish to the payee evidence of the amount of tax withheld. If withholding is impossible for any reason, the Tax Office must be notified.

Payments to recipients in Argentina are subject to withholding at varying rates, depending on whether or not the recipient is registered with the Tax Office as a taxpayer, as follows:

	Recipient Registered (%)	Recipient Not Registered (%)
(a) Interest on loans (on the amount of each payment exceeding A\$P85,000)	7	25
(b) Fees, commissions, and remuneration for services without supply of materials (on the amount of each payment exceeding A\$P100,000)	7	25
(c) Rents (on the amount of each payment exceeding A\$P100,000)	7	25
(d) Payments for haulage and cartage and for services including supply of materials (on the amount of each payment exceeding A\$P100,000)	None	3
(e) Payments for purchases exceeding A\$P100,000	None	3

To obtain the benefit of the lower withholding rates, the recipient's tax registration number must be shown on his invoice. The amounts in the table in excess of which withholding commences are increased periodically by the tax authorities to take inflation into account.

Payments or credits of income to nonresidents are subject to withholding, provided the income is derived from an Argentine source and is not exempt from tax. Even if the Argentine-source income is exempt from tax, the exemption from income tax will not be effective if it results in an increase in the tax payable to the taxpayer's country of origin. For other than exempt income, any third party making payments or credits directly to individuals resident abroad, or to

foreign corporations that do not have a branch in Argentina, must withhold at the rate of 45%. The 45% rate also applies if a corporation has a branch in Argentina, but the branch has acted simply as an intermediary and has not taken any other role in the actual transaction.

The 45% rate is not applied to the entire payment, as a deduction is allowed for expenses incurred abroad. In the case of interest payments to nonresidents, only 25% of the payment is subject to withholding and, in the case of royalties, 40% of the payment is subject to withholding. The withholding is applied to the following percentages of the gross payment in other cases.

Nonresident Recipient	Percentage of Payment Subject to Withholding
International transport companies	10
News agencies	10
Insurance companies	10
Movies shown in Argentina	50
Containers used in international transport	15

Dividends paid to Argentina shareholders are not taxable. For withholding on dividend payments to nonresidents, see 6.04.

Income Subject to Tax

6.01 The Nature of Income—Nontaxables

The income tax law provides that “net taxable income” includes all income arising from Argentine sources, less the allowable deductions (Chapters 7 and 10). A number of categories of income are specifically exempt from tax:

- Remuneration received by representatives of foreign countries and the annual rental value of offices and residential buildings owned by foreign countries, provided such countries grant reciprocal treatment
- Income of cooperative societies
- Income of religious institutions
- Income of social, educational, cultural, scientific, literary, physical culture and artistic societies; charitable organizations; and trade unions, provided that the funds are employed exclusively in accordance with their respective aims and no distribution is made to members
- Interest on bank savings accounts, time deposits, and special savings accounts, for nonbusiness taxpayers, and interest of up to A\$P321,768 per year credited by employers on employee deposit and loan accounts
- Compensation, in accordance with social security legislation or under an insurance contract, received by an employee or his next of kin on dismissal without just cause, disability, or death. (Indemnities received in lieu of notice of dismissal, remuneration during periods of temporary disability or illness, and pensions and lump-sum indemnities received on termination of employment are not included in this category of exempt income.)
- Interest on federal, provincial, and municipal bonds, obligations, and other securities, except when interest constitutes part of the business' income subject to inflationary adjustment
- Gain on maturity of life insurance and redemption of savings certificates or bonds
- Reimbursements for exports (2.06)
- Salaries of members of the judiciary
- Income of sporting associations
- Royalties earned by authors and composers
- The rental value of property on which the owner has his residence, but not a vacation home
- Profit on the sale of shares, debentures, and bonds
- Income of investment trusts
- Interest paid on foreign loans incurred to purchase and import industrial equipment

- Premiums above par value received by companies on the issuance of shares
- Interest on loans provided by international development organizations
- Increases in credits originating in adjustments for inflation, when previously agreed to. Also, exchange differences originating in credits or liabilities contracted in foreign currencies. (Exchange differences arising from imports that are paid for within 180 days are not exempt, 6.08.) These do not apply when the adjustments constitute part of the business' income subject to inflationary adjustment
- Income arising from the agreed inflation adjustments of amounts receivable, except when this adjustment constitutes part of the business' income subject to inflationary adjustment

6.02 Business Income

Business income is one of the four categories of income referred to in 2.03. For tax purposes, all income arising from business activities or earned by corporations, branches, limited liability companies and silent partnerships, as well as certain other entities, are included in this category. The determination of the business income of corporations is essentially the same as for other taxpayers. Unless otherwise stated, the discussion of income in Chapter 6 and that of deductions in Chapter 7 apply in determining the taxable income of corporations.

6.03 Interest Income

Interest derived from loan capital (whether or not guaranteed by a mortgage or lien) and interest on debentures must be included in the annual return. However, income derived from bonds issued by the various governments and certain other types of interest are expressly exempt (6.01), except when the interest constitutes part of the business' income subject to inflationary adjustment.

Nonresidents receiving taxable interest from Argentine sources are allowed a deduction of 75% of such interest for expenses incurred abroad. As the withholding rate of 45% is applied to 25% of the interest payment, the effective rate is 11.25% (5.02).

6.04 Dividends

Dividends received by shareholders are not taxable to them and are not includible in their tax returns. However, dividends are subject to a withholding tax of 17.5% when paid to (a) shareholders resident abroad or (b) resident shareholders who do not identify themselves at the time of payment of the dividend. Dividends paid in stock are not taxable to either resident or nonresident shareholders.

6.05 Capital Gains and Losses

Capital gains are not subject to income tax, but are subject to a special capital gains tax at the rate of 15% (13.01). However, certain profits and losses are not treated as capital gains and losses, but are subject to income tax or are deductible for income tax purposes. Such profits and losses include those resulting from:

1. Subdivision of land in plots for urbanization purposes
2. Sale, within two years of acquisition, of assets obtained as payment for receivables that arose in the ordinary course of business
3. Sale of depreciable assets used in business or industry (in a merger or reorganization, or if the Tax Office holds that an economic unit exists between the seller and the purchaser, the profit of the seller is not taxed and the purchaser takes over the seller's basis)
4. Sale of real property used in a commercial or industrial business other than farming or ranching and transferred within two years of such use. If held for more than two years, the disposal is taxed as a capital gain (13.01).
5. Transfer of goodwill, trademarks, and patents

See 13.01 for the determination of the cost or other basis and 7.02 for the revaluation of assets.

6.06 Income from Royalties, Patents, Trademarks, Etc.

Sales of goodwill, trademarks, and patent rights are taxable. If the asset does not have a definite life, the cost may not be amortized. Upon sale to a third party, the gain is included in the seller's taxable income.

Royalties received by corporations or individuals are included in gross income. If the royalty right decreases in value, the receiver of the royalty may deduct 25% of the amounts collected until the sum invested is recovered. If the receiver of the royalty is a domestic enterprise that customarily incurs investigation or research expenses to obtain items producing royalties, such expenses may be deducted. A foreign enterprise may deduct 60% of the income from service fees and royalties for expenses incurred abroad, but such deduction is not allowed for royalties based on intangible assets not subject to amortization, such as goodwill and trademarks.

6.07 Insurance Proceeds and Annuities

The proceeds of insurance policies are generally treated as compensation for a loss of capital in the hands of the recipient and are not subject to taxation. However, the excess of insurance proceeds over

the net basis of depreciable assets is considered taxable income. Also, dividends and profits of insurance companies received by life insurance policyholders are income to the recipients. Annuities are also taxable, subject to the right to treat 50% of the gross amount received as a return of capital.

6.08 Foreign Exchange Differences

Whenever receivables and payables contracted in foreign currencies appear in balance sheets in Argentine pesos, differences in foreign exchange must be accounted for. If the accounts result from customary business transactions, such as the purchase or sale of merchandise or the payment of expenses, the exchange differences are generally reflected in taxable income in the year in which the exchange fluctuation occurs.

Exchange differences in capital transactions do not affect taxable income. This includes remittances between a branch and its head office that result from capital transfers rather than from current business transactions. If balances in foreign currency are held abroad on a permanent basis, exchange differences are not subject to tax.

Deduction Items

7.01 Business Expenses

The income tax law allows deductions for those expenses necessarily incurred for the purpose of obtaining income or insuring its continuity. In addition, the tax laws contain comprehensive rules for the treatment of particular expenses and specifically permit the deduction of certain items. Expenses incurred abroad are presumed to relate to foreign income and are not deductible unless the contrary can be proved. The expenses related to business income that is partially derived from a foreign source or is otherwise tax exempt must be allocated between taxable and nontaxable income.

Expenditures are deductible only if they are properly supported by vouchers. In addition, an expense disbursement that is not properly documented becomes subject to withholding tax at the maximum rate prescribed for individual income tax purposes. However, if evidence is available to substantiate the disbursement as a necessary business expense, the deduction will be allowed and no withholding will be required. Provisions for contingencies and general reserves are not deductible.

Compensation of Employees. Salaries, wages, gratuities, bonuses, profit participations, and other compensation paid to employees are generally deductible, provided the payments are not excessive. Payments after the end of the year for services rendered in the prior year are deductible in the prior year if they are paid prior to the due date for filing the tax return.

Dismissal Indemnities. Indemnities on dismissal of employees are payable in accordance with their years of service and are deductible expenses. Indemnities may be deducted when paid or a reserve may be set up based on the total remuneration paid to employees during the year. The reserve is computed either at the rate of 2% of such remuneration or at the percentage of actual indemnities to total remuneration for the three preceding years.

7.02 Depreciation and Amortization

Depreciation. No definite depreciation rates exist, but rates of 5% for machinery, 10% for furniture, 20% for automobiles and trucks, and 2% for buildings are frequently used. The taxpayer should calculate the probable useful life of each asset subject to depreciation and, on this basis, write off a fixed percentage of the cost each year until the asset is fully depreciated. This corresponds to the straight-line method. However, the Tax Office may allow other approaches to computing depreciation if they are based on sufficient technical grounds. There is no requirement that tax depreciation and book depreciation must be the same.

The annual deduction for depreciation is increased by a formula to compensate for the effects of inflation. The regular deduction computed on the basis of historical cost is multiplied by the increase in the wholesale price index between the asset acquisition date (end of the calendar quarter) and the end of the company's tax year.

Amortization. Expenses incurred in the formation of all enterprises may be amortized by equal annual instalments over not more than five years or, at the taxpayer's option, may be written off entirely in the first year. The same treatment is applicable to certain direct exploration expenses of mining operations (7.03). Research and development expenses are deductible when incurred.

Intangible assets without a definite life, such as goodwill and trademarks, cannot be amortized. See 6.06 for recovery of the cost of royalty rights.

7.03 Depletion and Other Items Attributable to Mineral Resources

Income from the extraction of minerals or the production of natural gas or oil is generally determined on the same basis as other business income. However, in addition to the normal depreciation of assets and amortization of direct exploration expenses (7.02), the cost of acquiring mineral deposits or concessions is deductible through depletion allowances. In general, the annual allowance represents the proportion of the cost of the mineral or concession that the year's production bears to the total estimated deposit. Estimates of mineral deposits are subject to the approval of the tax authorities. Revised estimates may be required in cases of evident miscalculation.

Forestry depletion allowances are also provided if it can be shown that the value of the property has been impaired or the investment return has been diminished. Taxpayers availing themselves of this provision do not forfeit the right to deduct the cost of approved investments in new forestry plantations or in the extension of existing plantations (2.05), nor do they forfeit the right to deduct normal depreciation (7.02).

Oil and Natural Gas. Holders of exploration permits or exploitation concessions for oil and natural gas are subject to a special income tax, generally at the rate of 55%, in place of the regular income tax. During the first four years from the grant of a permit (five years if the exploration area is on the continental shelf), operating expenses (other than depreciation of fixed assets) may be deducted in the year incurred. In addition, expenses incurred prior to the start of extractive operations become part of the cost of acquisition for purposes of the determination of future depreciation. During the same period, an

extraordinary deduction may be taken in an amount equal to the ordinary depreciation on machinery, equipment, and other fixed assets used in exploration.

Permit holders with income from sources other than oil and gas may elect to take a simple deduction for their exploration expenses (including ordinary depreciation) against such other income. In that case, these expenses or the additional deductions mentioned above are not allowed in computing income for the special tax on oil and gas. Provincial and municipal taxes are not deductible, but they are creditable against the special 55% income tax.

7.04 Bad Debts

Deduction is permitted for business debts that become totally or partially uncollectible during the accounting year. Alternatively, the taxpayer may elect to provide a reserve for bad debts, which must be adjusted annually on the basis of the average yearly losses in the three preceding years. The amount by which specific bad debts exceed or fall short of the reserve in any one year is deductible, or subject to tax, as the case may be. Once either method has been elected, a change requires prior authorization.

7.05 Payments of Rents, Royalties, and Technical Assistance Fees

Rent payments on business premises are fully deductible. Owners of rented real estate may deduct expenses, including depreciation, taxes, and interest, as well as maintenance and repairs. In lieu of deducting actual maintenance and repair expenses, owners operating their own buildings (not under a contract with a management firm) may elect to deduct 5% of rent income. This option may be exercised separately for each building and, once adopted, may not be changed for five years. The value of improvements added by the lessee is considered income of the owner if the improvements constitute a benefit to the owner.

Royalty payments are deductible, provided the payments do not constitute distributions to the owners of the business. In the case of royalties paid abroad, their deductibility also requires that the underlying agreement be approved by the authorities. As in the case with interest, payment of royalties by a subsidiary or branch in Argentina to its foreign parent company are not deemed to constitute distributions of profits since the enactment of Law 21481 of January 5, 1977. See 5.02 for withholding tax on royalty payments to nonresidents.

Payments for technical assistance require the prior approval of local authorities. Such approval depends on the quality of the technology to be transferred and the reasonableness of the terms.

7.06 Taxes

Many taxes are not deductible; specifically disallowed as deductions are the income and estate taxes, contributions to local governments for road paving and other improvements, and the capital gains tax. After a capital asset has been acquired, all state, provincial, and municipal rates and taxes assessed on it are deductible as long as the asset continues to earn income. Taxes paid in the ordinary course of business, such as the turnover tax, customs duties, and stamp and excise taxes, constitute permissible charges against gross income provided they were incurred for the purpose of obtaining income or ensuring its continuity. The net worth tax paid by corporations (13.02) is deductible in the accounting year in which incurred. Any penalties assessed in connection with deductible taxes are also deductible, with the exception of penalties for fraud.

Certain taxes paid by the oil and natural gas industry are not allowed as deductions, but are treated as credits against the special income tax paid by that industry (7.03) in place of regular income tax.

7.07 Interest

Interest paid on partners' accounts or on the capital investment of an individual proprietor is treated as taxable profit in the hands of the recipient and is not deductible for tax purposes. Except for the foregoing, interest is deductible irrespective of the nature of the obligation or the term of financing. However, where a taxpayer's income is partially exempt, interest must be apportioned between taxable and nontaxable income, and that portion applicable to tax-free income is not deductible. For the purpose of determining the ratio of taxable to nontaxable income, income from foreign sources is ignored. Interest paid on loans obtained from employees is deductible, and the interest received by employees is subject to tax only if it exceeds A\$P321,768 a year.

7.08 Operating Losses

Operating losses incurred by any taxpayer in excess of any other income may be offset against income arising in subsequent years. Such losses, adjusted annually for variations in the wholesale price index, may be carried forward ten years, excluding the year in which the loss arises, but no provision exists for a carryback. Argentine corporations are required to combine the operating profits and losses of all branches in the country. On the other hand, the Argentine branch of a nonresident principal is treated as a separate business, provided that the net income from Argentine sources can be accurately determined.

7.09 Worthless Securities and Other Assets

Assets that become worthless because of casualty losses are discussed in 7.10. The loss on securities and other assets that decrease in market value or become obsolete is not recognized until the asset is sold. The resulting loss is deductible if the other party to the transaction is an unrelated party.

7.10 Casualty Losses

Losses by fire, flood, and other casualties are deductible to the extent not recovered from insurers. The loss of a building is measured by its net depreciated cost or the amount determined by revaluation less subsequent depreciation. The cost of repairing a damaged asset is deductible to the extent that the expenditure does no more than restore the asset to its original condition.

7.11 Charitable Contributions

Charitable contributions are deductible when made to the following:

- National, provincial, and municipal treasuries
- Tax-exempt entities
- Religious institutions
- Approved mutual-aid societies
- Charitable organizations
- Trade union associations
- Physical training institutions
- Educational, scientific, literary, and artistic institutions

The allowable deduction is limited to 20% of net taxable profits.

7.12 Advertising, Entertainment, and Travel Expenses

Advertising and entertainment expenses incurred for business purposes are normally deductible. However, deduction is denied when the expenses are:

- not supported by vouchers,
- deemed unnecessary for the purpose of obtaining income or ensuring its continuity, or
- related to capital assets subject to capital gains tax.

Ordinarily travel expenses incurred for the purpose of obtaining income or insuring its continuity are deductible. No specific rulings related to the deductibility of travel expenses have been issued.

7.13 Legal Expenses

Legal expenses are deductible insofar as they constitute ordinary expenses of the taxpayer's business, including expenses for renewal and cancellation of debts. Legal expenses incurred in the formation of a corporation may be amortized (7.02). Legal expenses incurred in connection with the acquisition of assets become part of their cost and may be recovered through depreciation.

7.14 Insurance

Corporations, partnerships, and professional persons may deduct all insurance premiums covering risks on assets that provide taxable income. The deductions available to individuals arising from insurance premiums are discussed at 10.02.

7.15 General and Special Reserves

Companies must allocate to a legal reserve not less than 5% of annual net income until the reserve equals 20% of the company's capital. The legal reserve may be used to absorb losses, but such absorption must be restored in future years. Appropriations to the legal reserve or other reserves are not deductible for tax purposes.

7.16 Nondeductibles

The following items are not deductible for Argentine tax purposes even though they might be appropriate deductions for accounting purposes or for purposes of determining income under the income tax laws of other jurisdictions:

- Argentine income taxes.
- Losses of illicit operations
- Amortization of intangible assets without a definite life (7.02)
- Entertainment expenses in certain cases (7.12)

Accounting for Income and Expenses

8.01 Tax Accounting Generally

The income tax law does not require that any specific books be maintained, but taxpayers engaged in business must enclose with their tax return a copy of their annual report, balance sheet, and profit and loss statement, certified by a public accountant. The Commercial Code stipulates several accounting books and requires that these books must be bound, the pages numbered consecutively, and the transactions entered clearly and in chronological order, and the required books must be notarized by the Public Commercial Registry.

Subsidiaries and branches of foreign entities operating in Argentina must keep their accounting records separate from those of their parent companies, and make the necessary adjustments to determine their actual net income from Argentine sources. Should this not be done, the Tax Office may determine that only one economic unit exists and may make its own assessment of income subject to tax.

8.02 Accrual of Business Income and Expenses

Commercial and industrial taxpayers may determine income either on the cash or on the accrual basis, but, once adopted, the method may not be changed without special authorization. All other taxpayers must compute their income and expenses on the cash basis, except for income derived from ownership or occupancy of real property which income must be computed on the accrual basis. On the cash basis, income is treated as constructively received when it is credited to the taxpayer's account or otherwise placed at his disposal. Special provisions apply to instalment sales. See 12.01 for accrual of retirement benefits.

8.03 Long-Term Contracts and Instalment Sales

Taxpayers engaged in a construction contract covering a period longer than one year may compute their income under either of two methods:

1. Report as income the percentage of the payments received during the year that corresponds to the percentage of gross income estimated to be earned on the completion of the building. This percentage must be approved by the Tax Office.
2. Report the gross amount of construction put in place during the year, less the costs allocable to that construction. If a construction project covers less than 12 months, but the construction period overlaps two taxable years, the taxpayer may also report on the completed-projects basis.

Accrual-basis taxpayers making instalment sales of real property may be allowed by the Tax Office to report income as each instalment is due, whether or not it is collected. On similar transactions, the Tax

Office may grant special terms under which the tax may be paid without interest over a period not exceeding five years. On other types of instalment sales, interest is presumed to be included in the sales price, even if it is expressly stipulated that no interest is charged. Such interest is always subject to income tax, while the gain on the sale may be subject to either income tax or capital gains tax (13.01).

8.04 Inventories

Inventories may be valued, at the option of the taxpayer, at cost, at market value, or at cost or market, whichever is lower. The Tax Office may approve other methods of valuation if they are customary in a particular type of business and are used consistently. Any change in inventory accounting methods and procedures, the makeup of inventories, and the basis of valuation requires prior authorization of the Tax Office and the adjustment of the preceding year's inventory to the new basis.

Purchase price or production cost may be determined on the basis of first-in, first-out (FIFO), average cost, or the average of a certain period of the fiscal year. Last-in, first-out (LIFO) is not permitted. The cost of purchased merchandise includes all expenses incurred up to the time the goods are ready for sale. Interest on capital is not includable in the cost of production.

Market value may mean local market prices or the taxpayer's own selling prices, with or without deduction for direct selling expenses. The taxpayer may write down the value of merchandise that is obsolete, damaged, or diminished in value for any reason, but the Tax Office may question the values used in determining the inventory amount.

Provisions Peculiar to Corporations

9.01 Resident and Nonresident Corporations Compared

Argentine tax law does not distinguish between corporations (*sociedades anónimas*), limited liability companies (*sociedades de responsabilidad limitada*), and limited partnerships (*sociedades en comandita*). Limited liability companies and limited partnerships are treated as corporations for income tax purposes.

The determination of the business income of corporations is substantially the same as for other taxpayers. Since income tax is imposed only on income from Argentine sources, there is no difference between Argentine corporations and branches of foreign corporations in the determination of taxable income. However, different tax rates apply to these two types of organizations. Domestic corporations are taxed at a rate of 33%. In addition, they must withhold tax at the rate of 17.5% on dividends paid abroad. If all after-tax profits were distributed as dividends, the effective rate of tax would be 45%. Branches of foreign corporations are taxed at the rate of 45%—the equivalent of the regular 33% corporate tax rate, plus the 17.5% dividend tax rate on the remaining 67% of taxable income.

9.02 Tax on Accumulated Profits

Argentina does not levy a tax on undistributed accumulated profits. A tax at the rate of 1.5% is levied on net worth and a tax is imposed on the transfer abroad of profits over 12% of registered capital (Chapter 13).

9.03 Affiliated Corporations

There is no provision in Argentine tax law that permits the filing of consolidated tax returns by affiliated companies. Transactions between affiliated companies are considered for tax purposes as transactions between third parties, as long as the terms are within usual market practice. However, loans are subject to the provisions of the law on foreign investments and royalties are subject to the provisions of the law on use of foreign technology. A loan or royalty agreement that does not satisfy the provisions of the respective laws will not be permitted to influence the determination of taxable profits. The Central Bank must be informed of all loans, and its approval of the proposed transaction is required. Royalty agreements are subject to the following provisions:

- They must be approved by the Technical Undersecretary of the Secretary of State for Industrial Development, which approval is normally based on the quality and price of the technology to be transferred.

- Royalties for the use of brand names are not allowed.
- Royalty payments must be determinable by the end of the fiscal year and paid shortly thereafter.

9.04 Liquidations and Other Corporate Changes

The cessation of business activities due to sale or liquidation terminates the entity's fiscal period and the tax return for the period thus ended must be submitted within one month thereafter. Any unused balances in reserves that represent previous deductions must be included in taxable income of the last period. Also, the final returns of employees' withholding taxes must be submitted. Any potential carryforward of operating losses is eliminated at liquidation.

If, in a reorganization, the assets of one corporation are transferred to another corporation, and the stockholders of the transferring corporation own at least 80% of the shares of the transferee corporation, no tax is incurred and the basis of the transferred assets remains unchanged.

9.05 Tax Adjustment for Inflation

Taxable income must be adjusted for the effects of inflation on business capital, as illustrated in Appendix C. This adjustment must be made by local and foreign-owned corporations and limited liability companies, branches of foreign companies, and enterprises carried on by individuals. The adjustment is the result of the interaction of two factors. One factor is the net monetary position (certain assets less certain liabilities) at the beginning of the fiscal year, and the other factor is the increase in the wholesale price index during that fiscal year. The net monetary position is adjusted in the same proportion as the increase in the index. The amount of this adjustment increases or decreases taxable income, as the case may be. When monetary assets exceed liabilities at the beginning of the fiscal year, the adjustment will decrease taxable income. When liabilities exceed monetary assets, taxable income will increase. Law No. 21,894 of October 27, 1978, which established this adjustment, defines the monetary assets that are taken into account to determine the net monetary position. Excluded as monetary assets are real property, assets for which the annual deduction for depreciation is increased to compensate for the effects of inflation (7.02), and various other assets, but inventories are included as a monetary asset. Certain liabilities are also excluded or included when determining net monetary position. Taxpayers may choose whether to make this adjustment for fiscal years ending in 1978. The adjustment must be made for fiscal years ending on or after January 1, 1979.

Provisions Peculiar to Individuals

10.01 General

Under Argentine tax law, each individual is a separate taxpayer and, therefore, married persons cannot file a joint tax return—the tax liability of each spouse is computed on the basis of his or her individual income. A wife's income is considered to include any earned income, any income arising from assets she possessed at the date of marriage, and any other income from property that was inherited or acquired subsequently by her own efforts. All other income—generally including income from a common enterprise, such as a husband and wife partnership—is attributed to the husband. However, any interest paid to a wife for the use of her capital in a common enterprise is taxable to her. Personal allowances for dependents (10.03) may be deducted by both husband and wife, if both spouses contribute to their support. Sole proprietors must adjust their taxable incomes for the effects of inflation (9.05 and Appendix C).

10.02 Itemized Deductions

The income tax law does not provide for deduction of medical expenses. Deductions are provided for interest paid or accrued on loans obtained for the purpose of earning or maintaining taxable income, and for charitable contributions to the extent of 20% of net income. Life insurance premiums, and the portion of the premiums covering death in mixed policies, are deductible to a maximum of A\$P179,700 a year; any excess may be deducted in future years. Funeral expenses are deductible up to A\$P429,024. (The deductible amounts noted in this paragraph are for the 1978 calendar year. These amounts are subject to annual increase in accordance with increases in the retail price index.)

Individuals who receive taxable income from property are allowed to deduct property and turnover taxes, depreciation, and maintenance expenses. Certain other deductions are allowed as tax incentives (2.05). Employee contributions to pension funds (12.03) are also deductible.

10.03 Personal Allowances

Resident individuals (10.04) may deduct a basic allowance of A\$P3,217,608, plus additional allowances for any income from salaries and wages, professional services, and small businesses. The additional allowances vary with the category of income, but the maximum additional allowance is A\$P2,681,340.

All individual taxpayers, resident or nonresident, are entitled to deduct allowances for each dependent, provided the dependent is a resident and has gross income not in excess of A\$P1,347,744.

The deductible allowances are A\$P750,780 for a spouse; A\$P500,520 for each child; and A\$P209,676 for each grandchild, grandparent, parent-in-law, daughter-in-law, sister, and brother and son-in-law who is unable to work or is under working age.

When a change in status occurs, such as on death, departure from Argentina, birth, or arrival in Argentina, the personal allowances are reduced in proportion to the number of months involved. Allowances in excess of income may not be carried forward to future years.

[As in the case with itemized deductions (10.02), the personal allowances are for the 1978 calendar year and will change automatically each year in accordance with changes in the retail price index.]

10.04 Resident and Nonresident Individuals Compared

A person who is physically present in Argentina for a period of six months during a tax year is deemed to be a resident. Generally, no distinction is made between residents and nonresidents in computing income; every individual is taxable on all income from Argentine sources. The personal allowances (10.03) are available only to residents. Nonresidents cannot use the progressive tax rate schedule, but are subject to tax on net income at the flat rate of 45%.

10.05 Taxation of Employees

Employees are subject to income tax as indicated at 5.01. Employee contributions to pension funds are mandatory. These amounts are withheld by the employer (12.03) and are deductible for income tax purposes. Employers must pay a family allowance to each employee who is married and/or has children (14.03). These allowances are exempt from income tax in the hands of employees.

Relief from Double Taxation of Foreign Income

11.01 Tax Treaties

Argentina has signed agreements with a number of countries for the avoidance of double taxation of income derived from air and sea transport (Appendix A). General treaties to avoid double taxation of income have been negotiated only with Sweden, West Germany, and Bolivia. The last two treaties are not yet in effect since an earlier treaty with West Germany was terminated and the new treaty has been signed but not ratified, and the treaty with Bolivia has not yet been ratified.

11.02 Credit for Foreign Income Taxes

In principle, only income derived from an Argentine source is subject to taxation, as discussed in Chapter 3. Nevertheless, international transport companies formed abroad are subject to withholding of 45% on 10% of their gross income, unless exempt by treaty.

Argentina does not provide a credit for foreign income taxes paid because such income is not subject to tax in the first place. However, double taxation is possible because the Argentine income tax system is based principally on the source of income (where the transaction occurs), while other countries may levy income taxes based on the domicile or residence of the taxpayer.

Pensions, Pension Funds, and Other Retirement Benefits

12.01 Taxation of Retirement Benefits

Retirement benefits are subject to income tax in the year received. Frequently, when an employee applies for a pension, it takes some time to process. When the first payment is finally made, all of the delayed payments are included. In such cases, the recipient can choose to report the entire amount in the year received or to allocate it between the years.

12.02 Approval of Pension Plans

All pension plans are regulated by the government. The plans were initiated as part of the social laws enacted by the National Congress (14.01).

12.03 Deduction of Pensions and Contributions to Pension Funds

Pension contributions must be made by both employers and employees in the form of certain percentages of earned income. For pension funds covering industrial, commercial, and civil activities, the employer contributes 15% and the employee 12% of earned income. Both contributions are deductible for income tax purposes. When pension benefits are received, they are subject to income tax (12.01).

The Self-Employed. All self-employed persons must contribute to one of the national pension funds. The maximum contribution varies with the fund with which the person is affiliated, which depends on occupation. As is the case with employee pension plans, the contributions are deductible and the pension benefits are taxable.

Part 3:

Other Taxes

Taxes on Sales, Transactions, Commodities, and Property

13.01 Capital Gains Tax

The tax on capital gains is a national tax that is collected by the Tax Office, but the proceeds are shared with the provincial governments. Individuals are subject to this tax only on profits obtained from the sale or exchange of all kinds of real property, except when the sale of real property constitutes their normal business and the profit obtained is subject to income tax. Local corporations, branches of foreign corporations, undivided estates, and limited partnerships are subject to the capital gains tax only on profit obtained from the sale of land used exclusively for agriculture and/or cattle raising. Both individuals and companies are subject to the capital gains tax only on profits derived from an Argentine source and not subject to income tax. The profits of partnerships are taxable to the partners in accordance with the partnership agreement. See 6.05 for certain sales of property that are not treated as capital gain or loss and are subject to income tax.

The tax at the flat rate of 15% is based on a tax return, due by April 20 each year, which reports any taxable capital gains realized during the previous calendar year. The tax is payable when the return is filed; however, up to a five-year extension may be granted for instalment sales.

Taxpayers may deduct A\$P3,976,321, annually, as nontaxable capital gains. (This amount refers to the last quarter of 1978 and is adjusted annually for inflation.) Individuals and entities whose income is expressly exempt from income tax are also exempt from this tax.

The net profit derived from the sale of real property is generally determined by deducting from the sales price any undepreciated balance of the purchase price, the cost of any improvements to preserve or increase the value of the property, and the necessary sales expenses; the latter may be presumed to be 5% of the proceeds. For real estate acquired before January 1, 1946, the property tax valuation on that date may be used as a basis. The cost determined by either purchase price or property tax valuation basis is subject to adjustment for inflation.

Capital losses are deductible only from capital gains. Excess losses may be carried forward and offset against gains of the following ten years.

In all cases where profits subject to this tax are paid or credited to persons domiciled abroad, the total tax must be withheld. On real estate transactions carried out in Argentina, the notary is obligated to withhold the tax.

13.02 Net Worth Taxes

Companies. Corporations, partnerships, branches of foreign companies, and all types of enterprises are subject to an annual tax of 1.5% of the net worth of their capital or fund assigned to the enterprise, on the basis of their annual balance sheet and with the adjustments prescribed by law. The tax applies only to taxpayers domiciled in Argentina.

Exemptions apply to participations in other enterprises to avoid taxing the same net worth twice, to government bonds, and to other minor items. Assets located abroad on a permanent basis are also excluded from the determination of tax.

The rules of valuing assets are similar to those used in the determination of income tax, including the revaluation of assets (7.02). Liabilities are computed on the basis of their value at the end of the year. Debts or credits to foreign head offices or affiliated companies are excluded when they arise from transactions that cannot be considered arm's-length transactions between unrelated parties. Companies whose tax payable is less than A\$P1 18,200 are exempt from this tax.

Individuals. Individuals are subject to an annual tax on their net worth as determined at the end of their fiscal year. The tax varies from 0.5% to a maximum of 1.5%, and is assessed on the basis of the assets located in Argentina, regardless of the taxpayer's domicile or nationality. The exemptions and rules for asset valuation are similar to those applicable to companies.

If assets located in Argentina are owned by companies or individuals resident abroad, the tax is at the flat rate of 1.5% of the adjusted value of the assets. The responsibility for payment of the tax on these assets is borne by the companies or individuals resident in Argentina which share the property, enjoy its use, or are responsible for the care of the taxable assets.

13.03 Sales and Export Taxes

Tax on value added at the general rate of 16% is imposed on all sales of goods not specifically exempt, with the exception of transactions at the retail level. The following services and specialties are also taxable: construction work, products made to customers' orders, hotels, restaurants, bars, most entertainments, beauty and barber shops, parking fees, laundries, rentals except for dwellings, repair shops, and general contractor services. Imports are also subject to the tax on the basis of import value.

Exemptions from the tax include domestic sales of agricultural and livestock products, prime necessities, products of ordinary consumption, and exports.

Taxpayers must register with the Tax Office, except for those whose annual sales do not exceed the minimum amount set by the regulations. The tax, which is paid monthly, consists of the difference between the sellers' taxes billed to customers and the amounts paid by sellers to their suppliers. It is mandatory that all transactions involving tax on value added be maintained in a special book.

Export taxes are imposed on a number of agricultural and livestock products at rates ranging from 5% to 25%. In general, exports of manufactures and mining products are not subject to export taxes.

13.04 Excise Taxes

Excise taxes were levied as early as 1891 on alcohol, beer, and matches. Since then, the excise taxes have been extended to many other products and commercial activities, including insurance.

Excise taxes are paid by importers, local manufacturers, and insurance and bonding companies. The time for payment of excises varies from when products leave the factory or custom house, when premiums are collected by insurance and bonding companies, and when cigarettes and wine are delivered for sale or consumption. The methods of payment also vary from attaching stamps to the product (cigarettes, wines, and lighters), making a sworn declaration (insurance and fuel), and making a bank deposit. Specific excise tax rates are set forth in the Rate Tables.

13.05 Turnover Taxes

The city of Buenos Aires and each of the 22 provinces impose a turnover tax on the gross sales or gross revenue of any trade, industry, profession, occupation, business, or lucrative activity carried on in their territories. The tax is based on the gross revenue obtained by the taxpayer during the previous calendar years, less deductions for taxes such as V.A.T. (13.03), excise taxes (13.04), and customs surcharges, and for any returns, bonuses, and cash discounts granted to purchasers. No credit is given for turnover taxes paid by other taxpayers. In Buenos Aires, the tax rates go up to 33%, according to the nature of the activity, with the average rate being 1.8%; in the 22 provinces the tax rates are approximately the same. The tax is levied on sole proprietors, partnerships, and corporations, with the following exemptions:

- The Argentine government
- Foreign diplomatic representatives

- Charitable institutions
- Producers of literary, pictorial, sculptural, or musical works
- Theaters
- Printing and sale of newspapers, periodicals, magazines, and books
- Dividends
- Interest on bonds issued by the national government, the provinces, and the municipalities
- Personal services performed by an employee

When the taxpayer carries on activities in two or more jurisdictions, the taxable amount must be allocated among them. However, in many situations double taxation still exists in spite of efforts to eliminate it (1.01). The problem is complicated because many of the important cities apply taxes identical to the turnover tax at a rate of about 1%. Although these taxes (to avoid the prohibition against imposing the same taxes as the provinces) may have some characteristics that differ from the provincial turnover taxes, in essence the same activities are being taxed.

13.06 Stamp Taxes

Stamp taxes are local taxes levied individually by the city of Buenos Aires and by each of the provincial governments. They apply to all documents, contracts, and civil or commercial agreements. The tax is due within the jurisdiction where a legal document is prepared or, if prepared abroad, where it is effective in Argentina.

An agreement is only subject to stamp tax when it is legally required to be in written form to render its conditions enforceable by law. Thus, the tax does not apply to verbal agreements.

The stamp tax is computed as a percentage of the total amount of the contract. If the total is not stated, an estimate must be made to determine the tax due. If it is not possible to estimate the total (for example, of royalties on a new product), the stamp tax is payable at the fixed amount of A\$P1,400. The majority of contracts or transactions covered by documents are taxed at a rate of 1%. Other rates are shown in the Rate Tables.

Among the more important stamp taxes is a tax of 1% on the authorized capital of a domestic corporation and on the assigned or subscribed capital of other business entities, including branches of foreign corporations. Revaluation reserves transferred to capital are exempt from this tax.

13.07 Local Taxes on Real Property

The city of Buenos Aires and all the provinces impose general property taxes as well as special taxes for lighting, sweeping, cleaning, and sanitary services (running water, sewerage, and drainage). The owner of the property is required to pay these taxes. Vacant land or property with unsatisfactory buildings is taxed at a higher rate. Higher rates apply also to luxury buildings.

13.08 Tax on Sale of Shares and Bonds

A national tax is imposed on the sale or exchange of shares, debentures, and other securities, except transfers, to provide collateral and other transactions that do not represent a transfer of ownership.

The tax, which is applied on the value of each transfer, is assessed against the transferor. The rate of tax is 0.5% of the sale price, and is in addition to the documentary stamp tax (13.06). For transactions carried out on the stock exchange or through commission agents, these entities must act as withholding agents. In sales between private parties, the purchaser must act as the withholding agent. The tax is levied by the Tax Office, and the withholding agents must submit sworn declarations to that office.

13.09 Miscellaneous Taxes

Numerous other taxes are levied, including the following:

Entertainment Taxes. Almost all municipalities and provinces levy taxes on admissions to race tracks, dances, sporting events, casinos, and other places of amusement. These taxes vary considerably.

Tax on Bank Account Debits. Payments by check from current accounts held by banks were subject to a minor tax. This tax was eliminated as of January 1, 1979.

Tax on Foreign Exchange Transactions. All transactions in foreign currency within Argentina are subject to tax at the rate of 6% of the amount of the transaction, calculated in Argentine pesos (Rate Tables). Foreign exchange transactions are handled by banks or authorized brokers who are exempt from this tax. The tax is paid by a seller when selling to an authorized bank or broker and by a buyer when purchasing foreign exchange. Foreign investors making an investment in Argentina would sell their foreign exchange and pay the 6% tax.

Tax on Profits Remitted Abroad. The law on foreign investments established a tax on the annual remittance of profits (net of income tax) in excess of 12% of registered capital. The tax is levied progressively as follows:

Annual profits remitted	Tax (%)
12% to 15% of registered capital	15
15% to 20% of registered capital	20
Over 20% of registered capital	25

Games of Chance. Lottery prizes and other winnings from games of chance are taxed at 25%. Winnings of up to A\$P269,362 annually are exempt from tax (1977—subject to correction for inflation).

Sale of Used Cars. Individuals who sell their used cars, and are not car dealers, are taxed at the rate of 5% of the estimated value of the used car sold.

Estate and Gift Taxes. Estate and gift taxes are no longer levied.

Employment Taxes

14.01 Social Security Contributions

Argentine social security is primarily designed to provide pensions at the retirement age of 55 for women and 60 for men.

Virtually every person over the age of 18, whether an employee or self-employed, is a member of this national pension system. The great majority of businesses are concerned with one of the two principal pension funds that are under the authority of an autonomous agency of the national government—the commercial fund and the industrial fund. Business enterprises must contribute to these funds on the basis of 15% of the gross remuneration of each employee. Employees also contribute 12% on the same basis, which amount is withheld by the employer. Employee withholding is at the time of payment, and the combined 27% must be deposited with the bank account of the pension fund within the first 15 days of the following month. A detailed statement must be filed annually. For contribution purposes, remuneration is deemed to include commissions, mandatory and gratuitous bonuses, and the assessable value of any other benefits, such as meals and lodging. The mandatory bonus, which amounts to one-twelfth of annual salary, is part of the legal salary structure.

14.02 Technical Education Tax

This is a national tax payable by industrial establishments that employ five or more persons. The tax is paid once a year on the basis of 1% of the total remuneration of employees, except that personnel engaged solely in selling and advertising are exempted and administrative personnel are included only to the extent of 50% of their remuneration. The tax is also levied on nonindustrial establishments engaged in activities for which government training facilities are available to train personnel in the skills required for that activity. If the taxpayer provides technical training or contributes to approved training schools, the tax rate may be reduced to 0.2%.

14.03 Family Allowances

Employers are legally required to provide family allowances to their employees—a measure that has many of the characteristics of a tax. The family allowances are financed by a deductible contribution by the employer of 12% of each employee's remuneration. The fund thus created is used by a special entity to provide married employees, and unmarried employees who have children, with a family allowance.

In practice, the employer may pay directly to the employee a monthly allowance of A\$P3,000 for a spouse and for each child not attending school, and A\$P15,000 for each child at school. These amounts are increased for families with more than three children and are adjusted periodically for inflation.

Family allowances are exempt from income tax and from pension fund contributions. If the employer's monthly contribution exceeds the family allowances provided to employees, the difference must be deposited each month, and a detailed accounting is required every six months. If an excess still exists, reimbursement is made.

Part 4:

Rate Tables

and Appendices

Income Taxes—Individuals

(1978—Amounts adjusted annually for inflation)

Net Taxable Income (A\$P)	Tax on Lower Amount (A\$P)	Percentage on Excess over Lower Amount
0- 536,268	0	7
536,268- 1,251,292	37,539	8
1,251,292- 1,966,316	94,741	9
1,966,316- 2,860,096	159,093	10
2,860,096- 3,932,632	248,471	11
3,932,632- 5,362,680	366,450	12
5,362,680- 6,792,728	538,056	13
6,792,728- 8,937,800	723,962	15
8,937,800-11,619,140	1,045,723	17
11,619,140-14,300,480	1,501,551	19
14,300,480-16,981,820	2,011,006	21
16,981,820-20,556,940	2,574,087	23
20,556,940-25,025,840	3,396,365	26
25,025,840-29,494,740	4,558,279	29
29,494,740-33,963,640	5,854,260	32
33,963,640-39,326,320	7,284,308	35
39,326,320-44,689,000	9,161,246	38
44,689,000-53,626,800	11,199,064	41
53,626,800-upward	14,863,562	45

Income Taxes—Corporations

	Rate (%)
Domestic Corporations (<i>Sociedades Anónimas</i>):	
On net taxable income	33
On distribution of dividends	17.5
Branches of Foreign Corporations:	
On net taxable income	45

Withholding Taxes (5.02)

	Recipient Registered (%)	Recipient Not Registered (%)
Residents:		
Fees, commissions, and remuneration for services without supply of materials (on each payment exceeding A\$P200,000)	7	25
Rents (on each payment exceeding A\$P200,000)	7	25
Payments for haulage and cartage and for services including supply of materials (on each payment exceeding A\$P200,000)	None	3
Interest on loans (on each payment exceeding A\$P85,000)	7	25
Interest on debentures and other bearer securities	7	25
Commissions paid to advertising agencies (on each payment exceeding A\$P200,000)	5	20
Nonresidents:		
Dividends, except in shares	17.5	17.5
Interest on debentures and other bearer securities	11.25	11.25
Remuneration of foreign directors	45	45
Other payments to:		
Corporations with no branch in Argentina	45	45
Individuals	45	45

Net Worth Taxes

Individuals (net worth of A\$P58,674,500 is exempt from tax):

From (A\$P)	Net Worth to (A\$P)	Tax on Lower Amount (A\$P)	Excess over Lower Amount (%)
145,240,500	290,481,000	0	0.50
290,481,000	435,721,500	726,203	0.75
435,721,500	580,962,000	1,815,507	1.00
580,962,000	871,443,000	3,267,912	1.25
871,443,000	over	6,898,925	1.50

Companies:	Rate
Capital situated in Argentina of foreign and domestic corporations	1½ %
Capital situated in Argentina of sole proprietors and partnership listed as merchants	1½ %

Capital Gains Tax (13.01)

Individuals:	
Profit on sale of land and buildings of all kinds	15%
Companies:	
Profit on the sale of land devoted to agriculture and/or cattle raising	15%

Tax on Foreign Exchange Transactions (13.09)

Transactions in foreign currencies (13.09):	
Sale, purchase, exchange, barter	6%
Swap operations	0.1% per month or fraction thereof

Excise Taxes on Major Items (13.04)

Commodity	Base	Rate
Cigarettes (different tobacco mixes)	Retail sales price, including tax	66.5%
Cigars and leaf tobacco	Manufacturer's or importer's sales price, including tax	16%
Luxury articles	Sales price at each step	10%
Toilet articles	Internal tax	15%
Insurance companies:		
Personal accident, workers' compensation, civil liability for personal accident	Premium income	2.5%
Other insurance	Premium income	8.5%
Ethyl alcohol		30%
Tires		25%
Whisky		37%
Cognac, gin, vodka, rum, pisco, and tequila		24%
Other:		
10 to 29 degrees of alcohol per liter		12%
30 degrees and over		17%
Common wines		5%
Fine wines and champagne		10%
Sparkling wines		7%
Blended wines		8.5%

Documentary Stamp Taxes (13.06)

	Rates
Contracts and documents in general	1%
Real estate transactions:	
Under A\$P2,200,000	2%
Over A\$P2,200,000	3%
Stock exchange transactions	0.2% payable by each party
Promissory notes	1%
Financial agreements in which interest is paid or received by banks or other financial entities	1% annually, based on the period of utilization, except for bank loans which are tax free

Countries with Which Argentina Has Entered into Tax Treaties

Treaties Dealing with Air and Sea Transport:

Belgium	Italy	Spain
Brazil	Japan	Sweden
Canada	Netherlands	Switzerland
Chile	Norway	United Kingdom
Denmark	Peru	United States
Finland	Poland	Uruguay
France	Portugal	Yugoslavia
Greece		

Treaties Dealing with the Avoidance of Double Income Taxation:

Bolivia (signed but not ratified)
Sweden
West Germany (signed but not ratified)

Specimen Tax Computation of an Argentine Resident Corporation

	Note No.	
Net income for year per books	1	A\$P100,000
Additions:		
Provisions for dismissals:	2	
Per books		20,000
Allowed for tax		<u>15,000</u> 5,000
Provision for bad debts	3	15,000
Provision for contingencies	4	2,500
Depreciation adjustment:	5	
Per books		120,000
Allowed for tax		<u>80,000</u> 40,000
Adjusted profit on sale and retirement of property, plant, and equipment:	6	
Taxable		10,000
Per books		<u>5,000</u> 5,000
Provision for current income taxes and deficiencies of prior years	7	85,000
Disallowed donations	8	500
Expenses relating to foreign-source income	9	<u>5,000</u>
Total additions		<u>A\$P258,000</u>
Deductions:		
Excess provisions for previous year's income tax and capital tax	10	2,000
Interest on government bonds	11	10,100
Income from a foreign source	12	43,000
Directors' fees and employee bonuses paid after the end of the year and not accrued	13	15,000
Profit on sale of bonds	14	12,500
Adjustment for inflation (9.05 and Appendix C)	15	<u>62,923</u>
Total deductions		<u>145,523</u>
Taxable profit		112,477
Prior losses carried forward	16	<u>5,324</u>
Taxable profit		<u>107,153</u>
Income tax (107,153 @ 33%)		<u>A\$P 35,360</u>

(continued)

Notes:

1. The income for the year per books is the starting point for the computation of income tax.
2. The difference between the book provision for dismissals and that allowed for tax purposes is adjusted (7.01).
3. The provision for bad debts is not allowed, since the corporation has elected to use the charge-off method for tax purposes (7.04).
4. The increase in the provision for contingencies is disallowed. Only expenses paid or accrued in the year are deductible (7.01).
5. The difference between depreciation per books and that allowed for tax purposes, including the difference arising from property, plant, and equipment being written off in full in a financial year instead of being written off over the period of useful life of the assets, is adjusted (7.02).
6. The difference between the result per books and for tax purposes of the sale and retirement of property, plant, and equipment is adjusted here or under deductions, as the case may be.
7. Income taxes are not deductible (7.06).
8. Donations to institutions are not exempt are disallowed (7.11).
9. Expenses applicable to income from a foreign source are disallowed, since such income is exempt from tax (7.01).
10. Since income tax and capital tax for the year are not deductible, excess provisions for the previous year are not taxable when they are credited back to income (7.06).
11. Interest on government bonds is not taxable (6.01).
12. Income from a foreign source is not taxable (2.01).
13. Amounts that corporations appropriate for payment of directors' fees are deductible in the tax year for which they are paid. Employee bonuses are also deductible in the tax year if paid prior to filing the tax return.
14. The profit on the sale of bonds is exempt from income tax (6.01).
15. Adjustment for inflation (9.05 and Appendix C).
16. Operating losses may be carried forward for ten years (7.08). The computation of prior losses carried forward includes an adjustment related to the variation in the wholesale price index during fiscal year 1978 (9.05 and Appendix C).

Tax Adjustment for Inflation (specimen computation)

A. Total assets per balance sheet at the beginning of fiscal year	300,000
Items excluded from the adjustment:	
• Fixed assets	140,000
• Investment in shares	5,600
• Investments in foreign countries	36,000
	<u>181,600</u>
Amount of assets subject to the adjustment	118,400
B. Adjustment to the accounting value of assets to concur with income tax rulings on valuation:	
• Provision for bad debts not deductible for tax purposes	7,200
Total	<u>125,600</u>
C. Less total monetary liabilities	<u>81,300</u>
D. Net capital exposure to inflation	44,300
E. Variation in wholesale price index during fiscal year 1978 ($2.4204 \times 44,300$)	<u>107,223</u>
Required adjustment in income tax return-loss	<u>62,923</u>

Taxes on Representative Earned Incomes

Earned Income Before Allowances (A\$P)	Single (no dependents) (A\$P)	Married (no children) (A\$P)	Married (2 children) (A\$P)
7,000,000	82,722	24,519	000
8,000,000	172,567	103,649	24,446
10,000,000	386,660	302,390	197,385
15,000,000	1,073,476	957,594	807,438
25,000,000	3,061,510	2,888,831	2,658,592

Note:

1. In computing the taxes on representative earned incomes, consideration was given to the following personal allowances:

	Single (no dependents) (A\$P)	Married (no children) (A\$P)	Married (2 children) (A\$P)
Basic allowance	3,217,608	3,217,608	3,217,608
Additional allowance	2,681,340	2,681,340	2,681,340
Allowance for spouse	—	750,780	750,780
Allowance for children	—	—	1,001,040
	<u>5,898,948</u>	<u>6,649,728</u>	<u>7,650,768</u>

These allowances were in effect in 1978. They are adjusted annually for inflation.